In the High Court of Judicature for Rajasthan
At
Jaipur Bench, Jaipur

O R D E R

In

S.B. Criminal Misc. Application No.1445/2007
In
S.B. Criminal Misc. Petition No.990/2007
M/s. Indian Oil Corporation Limited and others
Vs.
Mahendra Gaur and another

Date Of Order :: 23.11.2007

P R E S E N T
Hon'ble Mr. Justice Jitendra Ray Goyal

Mr. Rinesh Gupta and
Mr. K. Verma for respondent-company & Ors.
Mr. Mahendra Gaur, petitioner-present in person.
Mr. Ashwani Sharma, PP for State.

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By the Court :-

This criminal misc. petition under section 482 of the Code of Criminal Procedure has been filed by petitioner Mahendra Gaur in relation to the order dated 30/7/2007 passed by

this Court whereby the petition filed by accused respondents under section 482 of the Code of Criminal Procedure seeking exemption from personal appearance before the Special Court, Judicial Magistrate (Economic Offences), Jaipur for the offence under sections 206 & 207 of the Companies Act was allowed.

2. Heard Mr. Mahendra Gaur who appeared in person and the counsel appearing for respondents.

3. It was inter alia contended by the petitioner that he was not given the adequate opportunity of hearing, some of the respondents did not appear nor any power was filed on their behalf before the trial court, even then the petition was filed under section 482 of the Code of Criminal Procedure on behalf of them and that too was accepted. It was then contended that it was mandatory for the accused respondents to at least once appear and submit their bail bonds in

the trial court.

4. Learned counsel appearing for the respondents contended that after hearing both the parties at length at the admission stage the petition under section 482 of the Code of Criminal Procedure for exemption from their personal appearance before the trial court was allowed and now that order cannot be reviewed in view of the provisions of section 362 of the Code of Criminal Procedure. It was then contended that all the accused respondents have appeared through their counsel before the trial court.

5. I have considered the rival submissions made at the bar. It is very much clear from the order-sheet of this Court dated 11/7/2007 that on the prayer of both the parties the petition under section 482 of the Code of Criminal Procedure was heard at the admission stage and thereafter an application was moved before this Court by Mahendra Gaur, petitioner

herein, and again he was given opportunity to advance his submissions in regard to that application but at that stage also both the parties stated that they do not want to make further submissions in the matter which is evident from the order-sheet dated 23/7/2007. Therefore, it is crystal clear that ample opportunity for advancing their submissions was given to both the parties in the matter. It would be also pertinent to mention that this objection was neither raised nor pleaded by the petitioner Mahendra Gaur that on behalf of some of accused respondents 'vakalatnama' has not been filed before the trial court and after considering the arguments advanced by both the parties a detailed order has been passed by this Court on 30/7/2007. Now only because of the fact that 'vakalatnama' was not filed on behalf of some of the accused respondents before the trial court at that point of time, in the present

situation when it is not disputed that now all the accused respondents have appeared through their counsel before the trial court it would not be appropriate to alter or modify the order passed by this Court on 30/7/2007. Therefore, this application, being devoid of merit, is hereby dismissed.

(J.R. Goyal),J.

VS Shekhawat/-
Jr.P.A.